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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/759,103

01/12/2001

Scott Clark

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26158

7590

05/21/2007

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

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EXAMINER

LAstra, DANIEL

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/759,103	Applicant(s) CLARK ET AL.	
	Examiner DANIEL LASTRA	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-36 have been examined. Application 09/759,103 (SEARCH ENGINE PROVIDING AN OPTION TO WIN THE ITEM SOUGHT) has a filing date 01/12/2001.

Response to Amendment

2. In response to Non Final Rejection filed 05/18/2006, the Applicant filed a Request for reconsideration on 08/18/2006.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-10, 12-15, 17-25, 27, 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 2003/0054888) in view of Roll (US 2002/0016779).

As per claims 10 and 20-22, Walker teaches:

A method of providing a user with a game of chance, the method comprising:
receiving electronic signals from a user system representing at least one search parameter descriptive of a product (see Walker paragraph 39);
transmitting electronic signals to the user system representing at a least one product, a price of the product and a third-party retail vendor of the product (see Walker

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paragraphs 38 and 39). Walker does not expressly teach retrieving at least one product information from at least one database storing third-party retail vendor product information. However, Roll teaches a system that provides a comparative and variable pricing system that allows users to place an Internet search query for an item that said users have an interest (see Roll paragraphs 44-46) and receive back a comparative list of providers of said item, as well as terms of offer for said item (see Roll paragraph 57 and abstract, paragraph 61). Rolls also teaches that his present invention include, but are not limited to, pricing mechanisms for insurance, loans, credit cards, automobiles and other consumer pricing applications (see Roll paragraph 19). Walker also teaches in figure 6, third party manufacturers of products (see "campbell's, Volvo, sony"). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would be motivated to display to users a list of different third-party providers vendors of users' selected products, as taught by Roll, where said users would have the opportunity to play a game to win said products in order to enable said users the purchase of products from competing product providers, therefore obtaining the best price, with the added incentive of allowing said users to even play a game in order to obtain said products for free (see Walker paragraphs 125, 130).

automatically transmitting electronic signals representing at least a first option for the user to play a game to win the product without the user first making any payment (see Walker paragraph 130), or requesting the first option and a second option to purchase the product (see Walker paragraphs 34; 149);

if the user chooses to play the game:

electronically calculating a probability of winning the product by the user;
electronically generating a pseudo-random outcome corresponding to the calculated probability of winning (see Walker paragraph 144); and

in response to a winning pseudo-random outcome, purchasing the product for the user (see Walker paragraph 145) from the third-party retail vendor (see Walker paragraph 39);

and

if the user chooses to purchase the product instead of playing the game:

directing the user to a web site which sells the product (see Walker paragraph 34,149-151);

As per claim 1, Walker teaches:

A method of providing a user with a game of chance, the method comprising the steps of:

receiving electronic signals from a user system representing search parameters descriptive of a product (see Walker paragraph 39);

transmitting electronic signals to the user system representing the retrieved product information and associated prices (see Walker figure 6). Walker does not expressly teach retrieving at least one product information from at least one database storing third-party retail vendor product information. However, the same argument made in claim 10 regarding this missing limitation is also made in claim 1.

automatically providing the user an option to play a game to win a selected product from said product information without the user first making any payment (see paragraph 130) or requesting the option (see Walker paragraph 34; 149);

electronically calculating a probability of winning the selected product or service by the user (see Walker paragraph 144);

electronically generating a pseudo-random outcome corresponding to the calculated probability of winning (see Walker paragraph 145); and

in response to a winning pseudo-random outcome, purchasing the selected product for the user from the third-party retail vendor (see Walker paragraph 145; paragraph 39).

As per claim 15, Walker teaches:

A method of providing a user with a game of chance, the method comprising the steps of:

receiving electronic signals from a user system representing at least one search parameter descriptive of a product (see Walker paragraph 39);

transmitting electronic signals to the user system representing a plurality of different third-party retail vendors and associated prices charged by each of said different third-party retail vendors for products identified in response to said at least one search parameter (see Walker figure 6). Walker does not expressly teach retrieving at least one product information from at least one database storing third-party retail vendor product information. However, the same argument made in claim 10 regarding this missing limitation is also made in claim 15.

automatically transmitting electronic signals to the user system representing an option to play a game to win a selected product or service without the user first making any payment (see Walker paragraph 130) or requesting the option (see Walker paragraph 34; 149);

electronically calculating a probability of winning said selected one product by the user (see Walker paragraph 144);

electronically generating a pseudo-random outcome corresponding to the calculated probability of winning (see Walker paragraph 145); and

in response to a winning pseudo-random outcome, purchasing said selected one product from a corresponding third-party retail vendor for the user (see Walker paragraph 145; paragraph 39).

As per claims 7, 12 and 17, Walker teaches:

The method of claim 10, comprising calculating a probability of winning based on at least a current budget (see Walker paragraph 144).

As per claims 8, 13 and 18, Walker teaches:

The method of claim 10, comprising calculating a probability P of winning based on a total number of game players (see Walker paragraph 110).

As per claim 23, Walker teaches:

The method for providing a user an opportunity to win a product or service of claim 22 further comprising the step of purchasing the selected product or service for the user if the outcome for the play of the game is a win (see Walker paragraphs 129-131).

As per claim 25, the same rejection applied to claims 7-8 is applied to claim 25.

As per claims 2, 24 and 27, Walker teaches:

The method of claim 1, wherein the probability of winning on successive plays of the game increases with the value derived from the user's interaction with the system (see Walker paragraphs 26 and 89).

As per claims 9, 14 and 19, Walker teaches:

The method of claim 10, comprising calculating a probability P of winning based on:

$$P = \frac{P_a * P_t * P_m}{N} + P_u$$

where:

Walker does not expressly teach Pa is a probability factor that varies with the cost of the selected product in relation to the total cost of all products available. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that as the value of a prize approaches the total budget of a game of chance system, the more difficult would be the probability of winning a grand prize (see Walker paragraph 143).

Pt is a probability factor that varies with a current prize budget (see Walker paragraph 118-119);

Pm is a probability factor that varies with a ratio of the current prize budget to a total amount of funds received (see Walker paragraph 118-119);

Pu is probability factor that varies with the user's behavior during a user session (see Walker paragraph 88); and

N is a number of current users (see Walker paragraph 110).

As per claim 31, Walker fails to teach:

The method of Claim 1, further comprising collecting a database of third party retail vendor product information prior to receiving the search parameters from the user. However, Roll teaches collecting a database of third party retail vendor prior to receiving a query request from a user (see Roll paragraph 61). Therefore, the same rejection applied to claim 10 regarding the third-party vendor database missing limitation is also made in claim 31.

As per claim 32, Walker teaches:

The method of Claim 1 whereby transmitting electronic signal as representing product info and said automatically providing an option to play is by transmitting a webpage containing at least a link to a webpage of the third party retail vendor and a link to initiate playing to win the same product (see Walker paragraph 39).

As per claim 33, Walker teaches:

A method for increasing user traffic to a search engine website, comprising:

transmitting a results webpage to the user system, the results page including at least one link for redirection to a third party vendor website where the user system can interact with at least one webpage to purchase a corresponding product and further including in the same webpage a play link corresponding to said third party vendor link for redirection to a webpage which allows the user to play a game of chance to win the product corresponding to the third party website redirection link (see Walker paragraph 39). Walker fails to teach receiving a search query from a user system interacting with a

search webpage of the website, the search query defining a desired product for the user. However, Roll teaches a system that provides a comparative and variable pricing system that allows users to search for an item via an Internet browser (see Roll paragraphs 44-46) and receive back a comparative list of providers of said item, as well as terms of offer for the item (see Roll paragraph 57 and abstract, paragraph 61). Roll also teaches that his present invention include, but are not limited to, pricing mechanisms for insurance, loans, credit cards, automobiles and other consumer pricing applications (see Roll paragraph 19). Walker also teaches in figure 6, third party manufacturers of products (see "campbell's, Volvo, sony"). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would be motivated to display to users a list of different third-party providers vendors of users' selected products, as taught by Roll, where said users would have the opportunity to play a game to win said products in order to enable said users the purchase of products from competing product providers, therefore obtaining the best price, with the added incentive of allowing said users to even play a game in order to obtain said products for free (see Walker paragraphs 125, 130).

As per claim 34, Walker does not expressly teach:

The method of claim 33, wherein said play link webpage is provided by the search engine website and wherein the search engine website calculates the outcome of the game of chance for a user system selecting to play to win the product and further wherein if the user outcome is favorable the search engine website facilitating the purchase of the product from the third party vendor corresponding to the third party

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website redirection link. However, Roll teaches a search engine website which facilitates the purchase of a product from a third party vendor (see Roll paragraph 57).

Therefore, the same rejection applied to claim 33 is also applied to claim 34.

As per claims 35 and 36, Walker teaches:

A method for increasing user traffic to a search website, comprising:

retrieving product information and corresponding price from said third party websites for at least one products satisfying said query (see Walker paragraphs 38-39);

providing a game of chance in response to a user selection of the link to win the product; and purchasing the product from the third party for the user response to a favorable outcome in said game; transmitting at least one results webpage to the user, the results webpage including at least one link for the product information, a corresponding price, a link to the third party website, and a link to win the product (see Walker paragraphs 38-40);

providing a game of chance in response to a user selection of the link to win the product (see Walker paragraph 40); and

purchasing the product from the third party for the user in response to a favorable outcome in said game (see Walker paragraph 41).

Walker fails to teach:

providing a search webpage containing a search interface for a user to submit a search query for a product; receiving a search query from a user employing said search webpage; searching third party websites by reference to said query. However, the same

rejection applied to claim 33 regarding these missing limitations is also applied to claim 35.

4. Claims 3-5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (U.S. 2003/0054888) in view of Roll (US 2002/0016779) and further in view Yoseloff (U.S. 6,331,143).

As per claims 3 and 29, Walker teaches:

The method of claim 1, wherein the pseudo-random outcome is indicated by displaying a user chosen number and a comparison number, such that a winning outcome is indicated by displaying a comparison number that matches the user-chosen number, and a losing outcome is indicated by displaying a comparison number that does not match the user-chosen number. However, Yoseloff teaches about a system where a player selects a number and the system generates a random number, and a winning outcome is indicated if the user-chosen number matches the system generated random number (see Yoseloff column 8, lines 35-50; column 7, lines 50-64; column 3, lines 35-62). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Walker system would allow customers to play a game where the user would choose a number and the system would generate a random number, and where the customer would win a prize when the user-chosen number matches the system generated random number, as taught by Yoseloff. This feature would give customers an incentive to visit the retailer site as customers would have the opportunity to win products by playing games, without losing anything if the customer does not receive a winning outcome.

As per claim 4, Walker teaches:

The method of claim 3, wherein an increased probability of winning on successive plays of the game is indicated by displaying a comparison number having at least one digit matching the corresponding at least one digit of the user-selected number. Yoseloff teaches about the different probabilities associated with matching a one or more digits number chosen by a user with a random number generated by a system (see Yoseloff column 8, lines 6-65). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a user would use the Walker system would select a product and would play a game to have the opportunity to win the product and to win the game and the product the user would choose a number and the system would generate a random number where the winning outcome would be determined if at least one digit of the user-chosen number matches at least one digit of the system generated random number, as taught by Yoseloff. This feature would give customers an incentive to visit the retailer site as customers would have the opportunity to win products by playing games without losing anything if the customer does not receive a winning outcome.

As per claim 5, Walker teaches:

The method of claim 3, wherein the probability of winning is different than one divided by ten raised to the power of the number of digits in the comparison number. Walker teaches that the probability of receiving a winning outcome varies with customers, where loyal customers would have a higher probability of receiving a winning outcome and winning the product than other customers that are not as loyal to

the provider of the products (see Walker paragraph 26). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would vary the probability of receiving a winning outcome based upon the customers loyalty to the retailer and, therefore, the probability of winning the game would be different than one calculated with probabilistic method such as one divided by ten raised to the power of the number of digits in the comparison number. Walker would give a higher probability of winning the game to a loyal customer to thank him or her for being a loyal customer, which would serve as an incentive to continue visiting the shop.

5. Claims 6, 11, 16, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (U.S. 2003/0054888) in view of Roll (US 2002/0016779) and further in view of Angles et al (U.S. 5,933,811).

As per claims 6, 11, 16, 26, 28 Walker teaches:

The method of claim 10, but fails to teach comprising providing the user with an opportunity to increase the chances of winning on successive plays of the game by performing a task for which a third party, such as a game provider, provides compensation. However, Angles teaches a system where users are compensated for viewing sponsors' advertisements (see column 16, lines 38-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that users of the Walker system would be compensated for the viewing of selected sponsors' advertisements independently of the purchase of the advertised product or service, as taught by Angles and these compensations would allow users to play games to win the sponsors' advertise products, as taught by Walker.

Compensating users for viewing advertisements would be a good business decision as this would increase the probability that users would view the sponsors' advertisements and would play to win the advertise products, therefore increasing customer traffic and customer loyalty.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (U.S. 2003/0054888) in view of Roll (US 2002/0016779) and further in view of Angles et al (U.S. 5,933,811) and Yoseloff (US 6,331,143).

As per claim 30, Walker teaches:

The method for providing a user an opportunity to win a product or service of claim 29 but fails to teach wherein the user can increase the probability of winning the product or service by participating in an online survey for an advertising sponsor. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that sponsors would compensate users for viewing the sponsors' advertisements or for participating in the sponsors' online surveys. Sponsors would compensate users by allowing the users to play games to win the sponsors' products.

Response to Arguments

7. Applicant's arguments filed 11/03/2006 have been fully considered but they are not persuasive. The Applicant argues that there is no motivation to combine Walker with Rolls and that the references teaches away from each other, because according to the Applicant, the Walker reference results in increase profits for a single retail store, while Rolls teaches a system that is designed for use by multiple retailers which result in

lower profits by the retailers via lowered prices to the consumer. The Examiner answers that a user would be motivated to use the Walker and Roll system in order to find the best possible price (*i.e.* lower price) for a product by comparing the offer price of different providers with the added incentive of allowing said user to play a game in order to obtain said product for free. Therefore, contrary to Applicant's argument, Walker and Roll are combinable.

The Applicant further argues that Walker does not allow a user to purchase a product from a third party vendor because according to the Applicant, if the user wins a product, the customer is charged a game fee and receives the item directly from the offeror of the game. The Examiner answers that Walker teaches an embodiment where is not necessary to pay a fee to play a game (see paragraph 130, 152) and also Walker teaches the purchase of products from websites run by retailers (see paragraph 104). Therefore, contrary to Applicant's argument, Walker allow users to purchase a product from a third party vendor (*i.e.* retailer).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

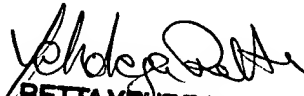
Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
March 31, 2007


RETTA YEHEDEGA
PRIMARY EXAMINER